

JUDGE KAPLAN

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

07 CV 9598

X

LIZA POPOVIC,

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET COMPANY LLC,  
and SUPER STOP & SHOP,

Defendants.

X

PETITION  
FOR REMOVAL

JURY TRIAL DEMANDED

Docket No.:  
ECF CASE

OCT 29 2007  
U.S.D.C. S.D.N.Y.  
CASHIERS

The Defendants, THE STOP & SHOP SUPERMARKET COMPANY LLC and  
THE STOP & SHOP SUPERMARKET COMPANY LLC i/s/h/a SUPER STOP & SHOP,  
petitioners for removal of this action from the Supreme Court of the State of New York,  
County of Bronx to the United States District Court, Southern District of New York,  
respectfully shows this Honorable Court:

**FIRST:** Plaintiff commenced an action against the above named Defendants, in a  
civil action brought against them in the Supreme Court of the State of New York, County of  
Bronx entitled:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

X

LIZA POPOVIC,

Index No.: 301206-07

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET COMPANY LLC,  
and SUPER STOP & SHOP,

Defendants.

X

(A copy of the Summons and Complaint in this action is annexed hereto as **Exhibit "A"** and Defendant's Answer is annexed hereto as **Exhibit "B"**).

**SECOND:** This is an action of civil nature in which the District Courts of the United States have been given original jurisdiction in that there exists diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds the sum of \$75,000.00 exclusive of interests and costs. Accordingly there exists original jurisdiction in the District Courts of the United States as provided in 28 U.S.C. §1332.

**THIRD:** Under the provisions of 28 U.S.C. §1441, the right exists to remove this civil action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, which embraces the place where this action is pending.

**FOURTH:** This action involves a controversy between citizens of different states. The plaintiff is and was at the commencement of the action, a citizen of Bronx County, New York State. The Defendant, The Stop & Shop Supermarket Company LLC is a foreign limited liability company at all times having its principal place of business at 1385 Hancock Street, Quincy, Massachusetts and having been registered as a limited liability company in the State of Delaware. The other Defendant Super Stop & Shop named in the State Court Action is not a viable legal entity existing separate and apart from the Stop & Shop Supermarket Company, LLC.

**FIFTH:** Upon information and belief, Plaintiff's amount in controversy exceeds the \$75,000 threshold. Plaintiff's Complaint does not specify the amount of damages because under NY State CPLR Section 3017(c), a plaintiff in a personal injury matter filed in the

Supreme Court of the State of New York is not permitted to assert the damages amount in the Complaint. Plaintiff provided a Bill of Particulars (**Exhibit "C"**) and a Combined Response to Discovery (**Exhibit "D"**), both dated October 19, 2007 alleging that the damages amount being sought is \$1,000,000. (Pursuant to Fed. R. Civ. P. Section 1446 is being filed within thirty days of learning this information pursuant to 1446(b)). This Action is also being removed within a year of commencement of the Action pursuant to Fed. R. Civ. P. Section 1446(b)).

**SIXTH:** In accordance with the requirements of 28 U.S.C. §1446, Defendants attach herewith and incorporate herein by reference copies of the following items served in this action:

a. Plaintiff's Summons and Complaint and Answer against the Defendants for damages filed in the Supreme Court of the State of New York, County of Bronx bearing index number 301206/07 is marked as **Exhibit "A"** and Defendant's Answer is marked as **Exhibit "B"**.

**SEVENTH:** By reason of the foregoing, Defendants desire and are entitled to have this action removed from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York, such being the district where this suit is pending.

**EIGHTH:** Concurrent with the filing of service and petition for removal, Defendants are serving this petition for removal upon the plaintiff's attorney, and filing a copy of this petition for removal with the Clerk of the Court for the Supreme Court of the State of New York, County of Bronx.

WHEREFORE, Defendants, **THE STOP & SHOP SUPERMARKET COMPANY LLC** and **THE STOP & SHOP SUPERMARKET COMPANY LLC i/s/h/a SUPER STOP & SHOP** pray that the above-entitled action now pending against them in the Supreme Court of the State of New York, County of Bronx be removed there from that Court.

Dated: Albertson, New York  
October 26, 2007

BY: P. Eschmann  
**PAUL ESCHMANN, ESQ.**  
**AHMUTY, DEMERS & McMANUS, ESQS.**  
Attorneys for Defendant,  
**THE STOP & SHOP SUPERMARKET**  
**COMPANY LLC and THE STOP & SHOP**  
**SUPERMARKET COMPANY LLC i/s/h/a**  
**SUPER STOP & SHOP**  
200 I.U. Willets Road  
Albertson, New York 11507  
(516) 294-5433  
Our File No. : SAS1178N7PAE

TO: Hoffmaier & Hoffmaier, LLP  
Attorneys for Plaintiff  
30 Avenue B  
New York, N.Y. 10009  
(212) 777-9400

DOCKET NO. :

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

=====

LIZA POPOVIC,

Plaintiff,

-against-

THE STOP & SHOP SUPERMARKET COMPANY LLC,  
and SUPER STOP & SHOP,

Defendants.

=====

PETITION FOR REMOVAL

=====

AHMUTY, DEMERS & McMANUS, ESQS.

Attorneys for Defendant,

THE STOP & SHOP SUPERMARKET COMPANY LLC and THE STOP & SHOP  
SUPERMARKET COMPANY LLC i/s/h/a SUPER STOP & SHOP

200 I.U. Willets Road  
Albertson, New York 11507

Tel #: 516-294-5433

Our File No. : SAS1178N7PAE

=====

To: [See Affidavit of Service]

Attorneys for:

=====

Service of a copy is hereby admitted

Dated: Albertson, New York  
October 26, 2007